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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

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19 UNITED STATES OF AMERICA,) No. 3-05-70991 EDL
20 Plaintiff,) [PROPOSED] ORDER AND STIPULATION
21 v.) CONTINUING PRELIMINARY
22 GONZALO MAYORGA,) HEARING/ARRAIGNMENT; WAIVING
23 Defendant.) TIME UNDER RULE 5.1 AND
24) EXCLUDING TIME FROM JUNE 22, 2006
25) TO JUNE 26, 2006 FROM THE SPEEDY
26) TRIAL ACT CALCULATION
27) (18 U.S.C. § 3161(h)(8)(A))
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19 The parties appeared before the Hon. Elizabeth D. Laporte on June 13, 2006 for a bail review
20 hearing. At that time, the Court: (1) scheduled a new preliminary hearing/arraignment date of
21 June 26, 2006 at 9:30 a.m., before the Honorable Maria-Elena James; (2) documented the
22 defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1; and (3)
23 documented the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), from
24 June 22, 2006 to June 26, 2006.

25 Because the parties are investigating recent events and are close to a pre-indictment
26 resolution of this matter, the parties have agreed, and the Court finds and holds, as follows:

27 1. The defendant waives the time limits for a preliminary hearing under Federal Rule of
28 Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny the

defense reasonable time necessary for effective preparation, taking into account the exercise of due diligence and recent events that need to be investigated, and would deny the defendant continuity of counsel.

2. Counsel for the defense believes that postponing the preliminary hearing is in his client's best interest, and that it is not in his client's interest for the United States to indict the case before the currently scheduled preliminary hearing/arraignment date. The parties are close to a pre-indictment disposition of the case, and expect to have the case resolved in the very near future.

3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to grant the requested continuance would unreasonably deny both government and defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and the need for both sides to investigate the facts of the case, and would deny the defendant and the government continuity of counsel.

4. Given these circumstances, the Court found that the ends of justice served by excluding the period from June 22, 2006 to June 26, 2006, outweigh the best interest of the public and the defendant in a speedy trial. *Id.* § 3161(h)(8)(A).

5. Accordingly, and with the consent of the defendant, the Court ordered that the period from June 22, 2006 to June 26, 2006 be excluded from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

4. The Court scheduled a new preliminary hearing/arraignment date of June 26, 2006, at 9:30 a.m., before the Honorable Maria-Elena James.

IT IS SO STIPULATED.

DATED: June 16, 2006

/S/
TRACIE L. BROWN
Assistant United States Attorney

DATED: June 20, 2006

/S/
STEVEN KALAR
Attorney for GONZALO MAYORGA

IT IS SO ORDERED.

DATED: June 21, 2006

Elizabeth D. Laporte
THE HON. ELIZABETH D. LAPORTE
United States Magistrate Judge